APPEAL NO. 032660
FILED NOVEMBER 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing (CCH) was held on June 12, 2003, with (hearing officer 1) presiding as the hearing officer. Because hearing officer 1 is no longer employed by the Texas Workers' Compensation Commission (Commission), the parties agreed that instead of conducting a second CCH, (hearing officer 2) would review the file and tape recording of the proceeding and issue a decision and order. Hearing officer 2 resolved the disputed issues by deciding that the appellant's (claimant) impairment rating (IR) is 6% as reported by the designated doctor chosen by the Commission, and that the claimant is not entitled to reimbursement of travel expenses for medical treatment at the direction of Dr. M. The claimant appealed hearing officer 2's determinations on the disputed issues. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Whether the claimant is entitled to reimbursement for travel expenses under Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 134.6 (Rule 134.6) was a factual question for the hearing officer to determine from the evidence presented. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Hearing officer 2 found that it was not reasonably necessary for the claimant to travel 45 miles one way to another city to obtain medical care; that Dr. M, his treating doctor, was providing routine chiropractic services; that chiropractic treatment is available in the town where the claimant resides; and that medical treatment for the compensable injury is reasonably available in the town where the claimant resides. We conclude that hearing officer 2's determination that the claimant is not entitled to reimbursement of travel expenses for medical treatment at the direction of Dr. M is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The parties stipulated that the claimant sustained a compensable injury on _____. The parties agreed at the benefit review conference that the claimant reached statutory maximum medical improvement on November 19, 2001. Section 408.125(e) provides that for a claim for workers' compensation benefits based on a compensable injury that occurs before June 17, 2001, if the designated doctor is chosen by the Commission, the report of the designated doctor shall have presumptive weight and the Commission shall base the IR on that report unless the great weight of the other medical evidence is to the contrary. The treating doctor assigned the claimant a 30% IR. The designated doctor assigned the claimant a 6% IR. Hearing officer 2 found that the 6% IR assigned by the designated doctor is not against the great weight of the medical evidence and concluded that the claimant's IR is 6% in accordance with the

report of the designated doctor. Conflicting evidence was presented on the IR issue. As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that hearing officer 2's decision that the claimant's IR is 6% as reported by the designated doctor is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain, *supra*.

We affirm hearing officer 2's decision and order.

The true corporate name of the insurance carrier is **TEXAS PROPERTY & CASUALTY INSURANCE GUARANTY ASSOCIATION FOR Reliance National Insurance Company, an impaired carrier** and the name and address of its registered agent for service of process is

MARVIN KELLY, EXECUTIVE DIRECTOR
9120 BURNET ROAD
AUSTIN, TEXAS 78758.

_____
Robert W. Potts
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Thomas A. Knapp
Appeals Judge